

**United States Department of Labor
Employees' Compensation Appeals Board**

L.L., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Davidson, NC, Employer**

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**Docket No. 08-135
Issued: May 8, 2008**

Appearances:
Robert Blaze, for the appellant
No Appearance, for the Director

Oral Argument April 1, 2008

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On April 2, 2007 appellant filed a timely appeal from a March 7, 2007 decision of the Office of Workers' Compensation Programs which denied her occupational disease claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of appellant's claim.

ISSUE

The issue is whether appellant established that she sustained an occupational disease in the performance of duty.

FACTUAL HISTORY

On June 27, 2006 appellant, then a 46-year-old rural carrier, filed an occupational disease claim alleging that she sustained right shoulder pain and left knee pain due to her employment,

specifically from casing mail, reaching over her head, standing for long periods of time and climbing stairs.¹

On June 30, 2006 the Office informed appellant that the submitted information was insufficient to determine her claim and that a comprehensive medical report from her physician was needed.

Appellant responded in a July 12, 2006 letter. In a June 28, 2006 report, Dr. Matthew Ohl, a Board-certified orthopedic surgeon, diagnosed left knee pain with possible medial meniscal tear and right shoulder bursitis. He reviewed x-rays taken that day and noted they showed no acute changes of the left knee or right shoulder. Dr. Ohl also recommended a magnetic resonance imaging (MRI) scan of the left knee. A July 5, 2006 MRI scan of the lower left leg revealed a degenerative tear of the posterior horn medial meniscus, that appellant was negative for lateral meniscus tear and that she had small to moderate knee joint effusion.

On August 16, 2006 the Office denied appellant's claim on the grounds that the medical evidence did not establish that the claimed medical conditions resulted from her accepted employment exposures.

On September 15, 2006 appellant requested reconsideration. An August 3, 2006 MRI scan of the right shoulder revealed a small partial articular surface tear. An August 7, 2006 note stated that appellant was unable to work for three weeks due to a right rotator cuff tear. In an August 7, 2006 progress note, Dr. Ohl found that the MRI scan showed that appellant had a small partial rotator cuff tear in her right shoulder. He also noted that she was still recovering from left knee surgery. On September 12, 2006 Dr. Ohl opined that appellant's work aggravated her shoulder symptoms which required surgery. He also noted that her symptoms had been present since June 28, 2006. A September 13, 2006 note stated that appellant was unable to work from September 12 to October 4, 2006.

On July 10, 2006 appellant filed a claim for compensation for the period June 27, 2006 to present.

On March 7, 2007 the Office denied modification of the August 16, 2006 decision, finding that there was no medical evidence of a causal relation between appellant's right shoulder and left knee conditions and her federal employment. The Office also noted in the decision the strenuous nature of appellant's nursing job.

LEGAL PRECEDENT

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence

¹ Appellant has a separately accepted June 27, 2006 traumatic injury claim for her right knee.

or occurrence of the disease or condition; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.²

The medical opinion needed to establish an occupational disease claim must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.³

The mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the condition and employment. Neither the fact that the condition became apparent during a period of employment, nor the employee's belief that the condition was caused or aggravated by employment conditions is sufficient to establish causal relationship.⁴

ANALYSIS

Appellant alleged that her right shoulder and left knee conditions are causally related to her postal employment. The medical evidence establishes that appellant has a torn rotator cuff in her right shoulder and a degenerative tear of the posterior horn medial meniscus and joint effusion in her left knee. Dr. Ohl also diagnosed left knee pain, however, a diagnosis of pain does not constitute a basis for payment of compensation.⁵ The Office has accepted appellant's employment factors of reaching, standing and climbing stairs. The issue is whether the medical evidence establishes that appellant's right shoulder and left knee conditions are causally related to her postal employment.

The Board finds that the medical evidence is insufficient to establish that appellant's conditions are causally related to her postal employment. Only one report from Dr. Ohl addressed the cause of appellant's conditions. On September 12, 2006 he opined that appellant's work aggravated her symptoms and caused her to undergo shoulder surgery. However Dr. Ohl did not identify which work activities aggravated her symptoms or whether it was her postal employment or her nursing position. He stated that appellant reported that it bothered her to do repetitive overuse activities. However, Dr. Ohl did not explain how her duties as a rural carrier caused or aggravated her conditions. He did not address how her right shoulder or left knee conditions were due to her work requirements. It is speculative to simply opine that work aggravated her symptoms. The Board has held that medical opinions that are speculative or equivocal in character are of diminished probative value.⁶

² *Elizabeth H. Kramm (Leonard O. Kramm)*, 57 ECAB 117 (2005).

³ *Donald W. Wenzel*, 56 ECAB 390 (2005).

⁴ *Alberta S. Williamson*, 47 ECAB 569 (1996).

⁵ *Robert Broome*, 55 ECAB 339 (2004).

⁶ *Kathy A. Kelley*, 55 ECAB 206 (2004).

None of the other medical reports contain any opinion as to the cause of appellant's conditions. Medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.⁷

The Board finds that appellant submitted insufficient evidence to establish that she sustained a condition in the performance of duty.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish that she sustained an occupational disease in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the March 7, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 8, 2008
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

⁷ *Michael E. Smith*, 50 ECAB 313 (1999).